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Intergovernmental working group of experts
on human rights of migrants
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# INFORMATION AND COMMENTS RECEIVED FROM GOVERNMENTS, UNITED NATIONS BODIES, SPECIALIZED AGENCIES, INTERGOVERNMENTAL AND NON-GOVERNMENTAL ORGANIZATIONS

Report of the Secretary-General

ANNEX

Submission from the Government of the Philippines
dated 2 February 1998

GE.98-10439

No. 021/LRB-98

The Permanent Mission of the Philippines to the United Nations and Other International Organizations in Geneva has the honor to refer to the note of the Secretary General (ref. GVA 8995) concerning the Questionnaire on Human Rights of Migrants. In this regard, attached is the Philippine response to the questionnaire for consideration of the working group on the human rights of migrants.

Geneva, 2 February 1998

# Philippine Responses to the Questionnaire on Human Rights of Migrants

## I. *Latest Figures or Estimates on:*

### A. *Total Population of RP, including Non-nationals (by country of origin*

The 1990 population census of the Philippines showed a total of 60.56 million, with the Filipinos numbering 60.42 million. The rest numbering 134,211 persons (.02 per cent of the total) were foreign nationals made up mostly of Chinese (44 per cent of the total number of foreign population), Americans (14.5 percent), British (5 percent), Indonesians (3 percent), Japanese (2.3 percent) and Indians (2 percent). According to the Population Commission, the latest estimate for the total number of population in the Philippines (as of 01 September 1995) is 68,616,536 or close to 70 million, with the number of foreign nationals roughly remaining the same. Since census-taking occurs every ten years, the new official statistics will not be able until after the year 2000.

As of 31 October 1997, a total of 127,251 aliens were registered by the Bureau of Immigration (BID) with nationals from about 10 countries of origin dominating the profile. Enclosed are the following statistical tables:

* Table 3 (Registered Aliens in the Philippines)
* Report on Applications under the Philippine Alien Social Integration Act (as of 31 October 1997)

### B. *Number of Nationals Abroad (by country of residence)*

According to the Department of Labor and Employment (DOLE), there was an overall total of recorded migration outflows of 8.95 million Filipinos between 1975 to 1995. Of these, 7.90 million or 88 per cent are overseas Filipino workers while only 1.04 million are permanent migrants. The official register of the Commission on Filipinos Overseas (CFO) showed a total of 943,842 Filipino immigrants (fiancés/fiancées/spouses of foreign nationals or Filipino permanent residents) who are residing overseas from 1981 to 1997.

At any given time, its is estimated that there are 6 million Filipino workers overseas of which 1.8 million are irregular migrants.

Enclosed are the following statistical tables:

- Table 1 (Comparative Annual Statistics on Irregular Recruitment Victims)
- Table 2 (Distribution of IR Victims by Sex)
- Table 3 (Purported Countries of Destination)
- Table 6 (Country of Destination of Filipino OCWs 1975-1995/in percent)*

According to DOLE, while the Middle East remains the primary destination of Filipino migrant workers, its importance has considerably waned over the past 20 years. The late 1980s has seen the emergence of East and Southeast Asian countries as major worker destinations. At least 6 Asian countries play as among the top 10 hosts of Filipino workers. The same trend can be said of the destinations of irregular migrants since their main purpose in leaving the country is still employment.

As host countries grew more prosperous, a shift is seen in the international demand for Filipino workers during the 1980s as indicated in the decline in the relative share of workers in the production and process workers and the increasing demand for service workers, usually domestic helpers, caretakers of elderly people and to some extent, entertainers. These work categories being traditionally done by women has resulted in the feminization of labor migration.

This trend is sustained in the 1990s when the proportion of women going to work abroad for the first time was half of all newly hired workers. A progressive trend is indicated in the succeeding years when the share of women among the neophyte workers rose to 55 percent in 1993 and 60 percent in 1994. During this period, an overwhelming majority of first-time overseas workers to Asian countries were women; at the same time, those bound for the Middle East countries are also increasing steadily in contrast to the 1970s and 1980s when the majority bound for such countries were male workers. Between 1992 and 1994, women migrants constituted an overwhelming majority of the workers bound for Hong Kong, Japan, Singapore, Brunei; trends in Taiwan and Malaysia also indicate an increasing intake of female workers.

The number one group of migrants in terms of skills are the service workers (e.g., domestic workers), followed only by the production workers (e.g. garments and electronics factory workers) and the professional and technical workers (e.g., bankers, engineers). Lagging in rank are the group of clerical workers, agricultural workers, sales workers and managerial workers.

### C. *Non-Nationals Having Authorization to Work in RP*

[Statistics from the Bureau of Immigration and Deportation to follow.]

### D. *Irregular Migrants to RP, including Visa Abusers (by country of origin)*

[Statistics from the Bureau of Immigration and Deportation to follow.]

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* Tables are kept in the files of the Secretariat and are available upon request.

## II. *Measures Taken in the Philippines to Strengthen the Promotion, Protection and Implementation of Human Rights of Migrants*

### A. Legal and Administrative Measures

- **Revised Penal Code** - the following acts carry penal sanctions under the Code: *Corruption of Minors* (Art. 340. Any person who shall promote or facilitate the prostitution or corruption of persons underage to satisfy the lust of another.); *White Slave Trade* (Art. 341. Any person who in any manner or under any pretext engages in the business or shall profit by prostitution or shall enlist the services of any other for the purpose of prostitution.)

- **Mail-Order Bride Law** (Republic Act 6955) - declares unlawful the practice of matching Filipino women for marriage to foreign nationals on a mail order basis and other similar practices including the advertisement, publication, printing or distribution of brochures, fliers and other propaganda materials.

- **Special Protection of Children against Child Abuse, Exploitation and Discrimination Act** (Republic Act 7610) - provides for stronger deterrence against abuse, exploitation and discrimination of children (below 18 years of age) punishable with *reclusion temporal* to *reclusion perpetual*.

- **The Migrant Workers and Overseas Filipinos Act of 1995** (Republic Act 8042) - defines the crime of illegal recruitment as any act of canvassing, enlisting, contracting, transporting, utilizing or procuring workers and includes referring, contracting services, promising or advertising for employment abroad whether for profit or not, when committed by a non-licensee or non-holder of authority. It provides for a maximum penalty of life imprisonment and a fine of not less than PHP500,000 but not more than PHP1 million to be imposed if the person who is illegally recruited is less than 18 years of age or if the crime is committed by a non-licensee or non-holder of authority. The law provides for mandatory assistance to distressed Filipinos, whether legal or irregular migrants and for repatriation of underage migrant workers. It brings undocumented workers within the purview of law by allowing them to register with the Migrant Workers Centre at jobsites. It also created the Legal Assistance Fund to be used exclusively for migrants in distress.

- **The Philippine Passport Act of 1996** (Republic Act 8239) - aimed at deterring illegal acts of recruiters and travel agencies through the protection and maintenance of the integrity and credibility of passports and travel documents.

- **The Witness Protection, Security and Benefit Act** (Republic Act 6981) - grants witnesses certain rights and benefits for victims of illegal recruitment and or their witnesses.

- **The Alien Social and Integration Act of 1995** (Republic Act 7919) - grants permanent resident status to qualified aliens and aims to bring them into the mainstream of Philippine society thus making them active participants in its development. The law covers aliens who entered the country before 30 June 1992 whose stay in the country is otherwise illegal under existing laws and who may want a confirmation or affirmation of their stay in the Philippines. These may include illegal entrants as well as legal entrants whose stay has become illegal. Under the latter category are tourists who entered legally but have since become overstayers, and holders of regular visas like students, pre-arranged employees, treaty traders, and special non-immigrants covered under CID Order No. 118 of March 197e which have since expired or been revoked. It also covers holders of visas, the basis for which does not exist such as permanent residents married to Filipino citizens but whose marriages are spurious or for convenience, and investors with no investments. Aliens who wish to confirm or affirm their stay in the country are those whose stay is of doubtful status, i.e., the basis is not by law but mere administrative issuance. Examples are holders of temporary resident visas issued pursuant to Law Instruction No. 33 and 48 as well as Note Verbale of the Department of Foreign Affairs dated 17 September 1990 and also covers holders of non-permanent resident visas.

- Administrative Measures by the POEA (Protective/Preventive)

  i/ Pre-deployment Protective Mechanisms - involves more stringent procedures and documentary requirements (e.g., domestic helpers should be at least 25 years old and 30 years if bound for Saudi Arabia and Bahrain; ability to speak, write and read English is a must; female entertainers should be at least 21 years old).

  ii/ Special Hiring Program for Household Workers - a new system which involves a comprehensive pre-qualification and selection process, i.e., registration, training, trade testing, systematic monitoring of departure and arrival, strengthened grievance machinery, re-entry preparations on-site, a one-stop accreditation and contract processing facility (*implementation on hold due to a court injunction.*)

  iii/ Selective Deployment (Department Order No. 32 Series of 1996) - deployment of Filipinos for overseas employment is subjected to the following conditions: female household workers (HW) and overseas performing artists (OPAs) meet the prescribed minimum age requirements; workers possess basic literacy skills, experience and/or training required by the job; workers shall be deployed to host countries that provide protection to foreign migrant workers in the form of labor laws, bilateral and multilateral agreements and other safety mechanisms.

iv/ Full Disclosure Policy (Department Order No. 35 Series of 1996) - a mechanism whereby all parties to a contract declare the real terms and conditions in all aspects of the worker's employment.

v/ Deployment Ban/Markets or Skills Restriction - Suspension of deployment, restriction of market skills by the POEA if circumstances warrant the same, depending on the conditions, peace and order situation on site and upon the advice of the DFA and Philippine Embassy posts.

vii/ Watchlisting/Blacklisting of Foreign Principals and Employers - Prohibits from participating in the overseas employment program employers, principals and contracting partners found defaulting on their contractual obligations to workers, agencies and/or violating rules and regulations on overseas employment or committing grave misconduct and offenses involving moral turpitude.

viii/ Rationalizing the Conditions, Requirements and Procedures for the Deployment of Performing Artists (Department Order No. 21 Series of 1996) - establishes welfare programs and operationalizes welfare and monitoring centers in strategic locations to strengthen and enhance the on-site protection of performing artists.

ix/ Requirements, Conditions and Procedures for the Deployment of Filipino Performing Artists Overseas (Department Circular No. 01-91; Department Order No. 3.3-A Series of 1994) - set qualifications of performing artists; pre-qualification of principals/promoters; pre-qualification of performance venues; posting of escrow deposits by the foreign employers/promoters in the amount of US$20,000 or its equivalent in Philippine currency, to answer for all claims of the artists against the employer/promoter; comprehensive training and certification of performing artists prior to deployment to ensure skills, psychological and emotional preparedness for overseas employment.

B. Public Information and Education

* **Migrants Advisory and Information Network** or MAIN. Twelve participating agencies (Department of Foreign Affairs, Department of Labor and Employment, Department of Social Welfare and Development, Department of Interior and Local Government, Philippine Information Agency, Commission on Human Rights, National Commission on the Role of Filipino Women, Philippine Overseas Employment Administration, National Bureau of Investigation, Bureau of Immigration, Overseas Workers Welfare Administration and the Commission on Filipinos Overseas) are cooperating to raise public awareness on migration realities, issues and concerns. MAIN activities include the conduct of information campaigns and the provision of visible and accessible information, counselling and advisory services at the

regional, provincial, municipal and barangay levels. Among the materials being distributed is the MAIN Reference Manual (CFO publication) which contains immigration, labor and social security policies of major countries of destination, as well as the directory of MAIN focal persons.

* **Educational Modules on International Migration and Development in the Elementary and High Schools.** The Commission on Filipinos Overseas, the Department of Education, Culture and Sports, and the Philippine Overseas Employment Administration, in consultation with the NGOs and the academe, developed an educational module on international migration and development. Said module contains 45 lessons which will be integrated in the social studies and values education subjects in the elementary and high schools starting schoolyear 1998-1999.

* **Promotion of workers' education with the end in view of empowering women workers thus enabling them to protect themselves against any form of abuse or violence.** These consist of the following activities which are mainly undertaken by the POEA in collaboration with public and private sector groups:

i/ Mandatory and centralized pre-departure orientation seminars (PDOs) for all migrant workers departing for the first time, especially women migrant workers in vulnerable occupations like domestic helpers and entertainers, in partnership with accredited NGOs. The seminars inform participants of the culture and mores of the host countries; the nature of their work overseas; their duties and responsibilities including towards their families; remittance requirements; airport departure procedures; arrival, etc.

ii/ Nationwide pre-employment orientation seminars (PEOs) at the grassroots level in tandem with Local Government Units, Non-Government Organizations, People's Organizations and other civic or religious groups.

iii/ Anti-illegal recruitment campaign involving the support of a massive inter-agency participation of law enforcement bodies and volunteer civic groups, in the form of seminars for law enforcers, prosecutors, academe and other NGOs.

iv/ Zonal and regional conferences on overseas employment with Anti-Illegal Recruitment Coordinating Councils nationwide.

v/ Radio and television programs and articles in the print media tackling issues on migration such as Pre-employment Orientation on Air (DZRH), Radyo ng Bayan.

vii/ Travel advisories and market updates.

viii/ Information materials such as posters, brochures, comics, and primers.

C. Provision of Direct Assistance and Services

* **CFO Services for Filipino Emigrants**

i/ Orientation Seminars for Pre-departing Filipino Emigrants - In these daily pre-departure sessions, information is provided on travel regulations, cultural differences, rights of migrants, employment and social security in destination countries, immigration procedures, and obligations of Filipino citizens, among others, to facilitate the adjustment of Filipino emigrants in their countries of destination.

ii/ Guidance and Counseling Services for Fiancées/Spouses of Foreign Nationals - These daily sessions for departing Filipino fiancées and spouses of foreign nationals are aimed at helping them cope with difficulties in intercultural marriages and settlement overseas. They are provided with information on migration laws, cultural differences, available support services in their countries of destination, marriage concerns, ways of coping with difficult situations and rights of migrants overseas.

iii/ Sponsors' Watchlist Information System - Operationalized in 1996, this system facilitates access of information about foreign partners who may have petitioned other Filipino fiancées/spouses. Filipino partners of foreign nationals undergoing counselling at CFO are consequently informed of previous sponsorships by their partners in the event that these exist on the information system.

iv/ Peer Counseling - Counselling services are provided to Filipino emigrants who belong to the 13-19 age bracket to help them adjust and cope with their peculiar anxieties and apprehensions about going abroad.

v/ Post-Arrival Orientation Services - In cooperation with 10 Filipino and international organizations in the US, Canada, Australia, Japan, Taiwan and Germany, CFO conducts post-arrival orientation services for emigrants to enable newly-arrived Filipinos to link with employment agencies, migrant resource centers, support groups and Filipino associations in their areas of settlement.

* **DOLE/POEA Services**

i/ Legal Services - free legal counseling and advice; free legal assistance to victims of illegal recruitment in the filing of cases, prosecution and trial; free legal assistance to migrants in the filing of cases with money claims arising out of employer-employee relationships or any claim arising from contracts of

employment; free legal assistance to applicants/migrants with pre-employment complaints against recruiters or agencies.

ii/ Repatriation - Repatriation of stranded, detained, maltreated, ailing or deceased worker is done in collaboration with OWWA, Philippine Embassies/Consulates and Overseas Labor Corps.

iii/ Promotion of Workers Education and Information Campaign *(See listing above)*

iv/ Reintegration services and programs - Training courses are being offered and information on employment and livelihood options are provided once workers decide to return to the Philippines permanently or temporarily. All the programs and services of the Department of Labor and Employment and its agencies are available for all overseas workers. These include skills training and upgrading courses by Technical Education and Skills Development Authority (TESDA), including its own placement services; the Bureau of Local Employment (BLE's) employment placement and referral services; OWWA's livelihood loan referrals and skills-for-employment scholarship baccalaureate course.

v/ Staff development for DOLE officers attending to women migrant workers - Gender-sensitive seminars are incorporated in the training of DOLE-OWWA and officers working directly with OFWs as well as overseas officers.

* **DFA Services**

In accordance with the Migrant Workers and Overseas Filipino Act (Republic Act No. 8042), a special action office was created at the Department of Foreign Affairs which became known as the Office of the Legal Assistant for Migrant Workers Affairs or OLAMWA. This office coordinates all legal assistance to Filipinos abroad and supervises the Consular Assistance Division (CAD) which extends various consular services, including legal assistance and repatriation, to Filipino nationals. The fulfillment of CAD's mandate has been supported by increasing financial outlays (i.e., 57 million pesos from 1995 to May 1997, excluding the 100 million pesos spent for repatriation of Filipinos from the Gulf area and from Sandakan).

The Department of Foreign Affairs launched several initiatives to ensure efficient delivery of services and assistance to overseas Filipino Workers (OFWS), most notable of which are the following:

i/ Establishment of ***round-the-clock assistance centers*** under the direct supervision of Philippine Embassies and Consulates, in countries where there is a large concentration of Filipinos. As of May 1997, there are a total of 25 such centers which operate even on week-ends and holidays.

The Office of Workers' Welfare and Administration (OWWA) operates Filipino Workers Resource Centers (FWRC) which are attached to the assistance centers operated by the Philippine embassies and consulates. The FWRC offer overseas workers counseling and legal services, conciliation of disputes arising from employer-employee relations; translation of written complaints and interpretation services during court hearings; procurement of medical and hospitalization services; information and orientation programs for overseas workers; human resource development including skills training and upgrading. While the Centers cater to all overseas Filipinos, majority of priority custodial cases are women.

Other services offered in the FWRCs include Kabuhayan services such as training and retraining referrals; livelihood loan referrals; investment counseling. Upgrading courses like computer lessons are popular, particularly among domestic helpers in Singapore and Hong Kong who would have the opportunity to upgrade their occupational status by getting employed in the commercial and industrial sectors in their host countries.

Social counseling is also offered for women workers and their female dependents to help them cope with the adjustment process once they return home.

ii/ Establishment of *DFA passport extension offices* all over the country (now numbering 11) to coordinate with relatives of OFWs in need of assistance in order to facilitate prompt response.

iii/ Preparation and implementation of the provisions of the *Crisis Management and Security Manual* in the event of natural calamities or armed conflict threatening the lives and safety of Filipinos abroad.

iv/ Establishment of a *communication network* to enable the DFA and its foreign posts to stay in touch with the host government on the one hand, while coordinating with Philippine Government agencies on the other. This network helps the DFA gather information from different sectors abroad while at the same time handle information flow with media, NGOs and foreign embassies in the Philippines.

v/ *Close coordination with government agencies and task forces* on issues relevant to migrant workers.

D. Other Measures, including Bilateral/Multilateral Arrangements

* **Enhanced inter-agency cooperation in the drive against illegal recruitment**

It has been noted that aspiring overseas workers continue to be victimized by illegal recruiters who have ingenuously expanded their operations to cover the country's international airports and seaports. Illegal recruitment, in all forms, including human smuggling and trafficking of migrants pose a serious and persistent problem causing the President of the Philippines, Fidel V. Ramos, to

declare the year 1997 as Anti-Migrant Trafficking Year (Proclamation No. 976).

On 07 June 1997, the concerned government agencies signed a memorandum of agreement to enhance cooperation of all agencies in the prevention of the existence and/or proliferation of illegal recruiters providing escort services at the international airports and seaports. The government agencies involved are the Philippine Overseas Employment Administration (POEA); the Manila International Airport Authority (MIAA); the Bureau of Immigration (BI); the Department of Foreign Affairs (DFA), the Philippine National Police (PNP); the National Prosecution Service (NPS); the National Bureau of Investigation (NB

(NBI). A co-signatory to the memorandum is the Airline Operators Council (AOC), an organization of airline companies operating in the Philippines.

* **Databank on Migration** - The Commission on Filipinos Overseas (CFO) is developing estimation procedures on migration, which will strengthen policy making on overseas migration through the development of an information system on international migration statistics. The initial phase of this activity, which involves the development of the technical project proposal for the estimation procedure, is on-going.

On the other hand, six government agencies (Department of Foreign Affairs, Commission on Filipinos Overseas, Department of Tourism, Philippine Overseas Employment Administration, Overseas Workers Welfare Administration and the Bureau of Immigration) are involved in the Shared Government Information System which allows the free-flow of data exchanges and sharing among the agencies concerned in the movement of Filipinos overseas, to be used as a basis for the development of measures to promote their well-being.

* **Bilateral Agreements and Multilateral Initiatives** - Bilateral agreements to protect Filipino migrant workers have been forged with Jordan, Iraq, Qatar, Libya, Papua New Guinea, Federated States of Micronesia, Liberia and the Commonwealth of Northern Marianas Island (CNMI).

The DFA and DOLE also conducted joint labor commissions with the Gulf Cooperation Council, Malaysia and Korea.

The Philippine Government is currently negotiating labor agreements with the following countries: Taiwan (MOU on the Special Hiring Program for Taiwan); Bahrain (Agreement on Manpower, Economic, Commercial, Technical Cooperation); Lebanon (Bilateral Manpower Agreement); Kuwait (MOU on Labor); Oman (MOA on Mobilization of Manpower); KSA (MOU on Labor);

and Kuwait, UAE, Qatar, Bahrain and Oman (MOU on the Establishment of the Joint Ministerial Commission for Bilateral Cooperation).

In the multilateral arena, the issue of migrants was strongly championed and ventilated by the Philippines in relevant foras, like the 1993 Vienna World Conference on Human Rights, 1994 Cairo International Conference on Population and Development, 1995 Copenhagen World Summit for Social Development and the 1995 Beijing World Conference on Women.

In the annual UN General Assembly sessions, the Philippines has been pushing and campaigning for more ratifications of the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Also in the UNGA sessions as well as in the annual meetings of the UN Commission on Human Rights (UNCHR) and the UN Commission on the Status of Women (CSW), the Philippines takes the lead in sponsoring and negotiating the adoption of resolutions exhorting member states to address the issue of violence against women, particularly women migrant workers. UNGA resolutions on women migrant workers, which were always adopted by consensus, were initiated by the Philippines and co-sponsored by other countries in 1992, 1993, 1994, 1995 and 1996/1997.

The Philippines also continues to sponsor resolutions in the UN to prevent traffic in women and girls and to criminalize human trafficking in all its forms.

In addition, the Philippines currently supports two regional initiatives affecting migrants, namely: the Manila Process under the International Organization for Migration (IOM) serving as the forum for issues relating to irregular migration in Asia and the Pacific, and the Bangkok Process under the UN High Commissioner for Refugees (UNHCR) which discusses issues relating to refugees and forced migrations, also in the Asia and the Pacific.

## III. Any Manifestations (No. of Cases) of Racism, Xenophobia and other Forms of Discrimination Against:

### A. *Migrants in the Philippines*

Racism, xenophobia or other forms of discrimination has never officially or factually existed in the Philippines. There has never been any references to the existence of a discriminatory policy on racial grounds nor has there been any allegation of instances of racial discrimination as a specific kind of human rights violation in the Philippines. There has also been no reported case of xenophobia or intolerance exhibited by any Filipino toward any migrant in the country.

B. *Filipino Nationals in Other Countries*

While the Philippine Government maintains no official records, it is possible that Filipino nationals may have encountered racism, xenophobia or other forms of discrimination while they are residing or working abroad. However, the Philippine Government is particularly concerned about the welfare of its migrant workers, particularly women migrant workers, in light of the well documented cases of violence a number of them have encountered (e.g., exploitative terms and conditions of work; unpaid salaries; physical abuse, sexual harassment and rape; trafficking and forced prostitution).

## IV. *Steps Taken to Ratify Relevant Conventions*

A. *1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*

B. *1949 ILO Convention Concerning Migration for Employment (No. 97)*

C. *1975 ILO Convention Concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (No. 143)*

The Philippines ratified the 1990 UN Convention on migrant workers on 06 June 1995. It has yet to ratify the above ILO Conventions.

However, it has ratified the ILO Convention No. 19 on the equality of treatment for nationals and foreign workers as regards workmen's compensation for accidents (April 1994) and ILO Convention No. 118 concerning equality of treatment for nationals and non-nationals in social security (April 1994).

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